



# Department of Commerce

Innovation is in our nature.

**Grant to:**

City of Seattle Office of Housing  
through  
U.S. Department of Energy  
Sustainable Energy Resources for Consumers (SERC) Grant Program  
Weatherization Assistance Program

**For:**

American Recovery and Reinvestment Act of 2009 funds for local weatherization agencies to expand the Weatherization Assistance Program for materials, benefits, and renewable and domestic energy technologies not currently covered.

**Under the American Recovery and Reinvestment Act (ARRA)  
of 2009**

**Start date:**

December 1, 2010





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# FACE SHEET

Grant Number: F10-431SE-404

Washington State Department of Commerce  
Community Services and Housing Division  
Housing Improvement and Preservation Unit  
U.S. Department of Energy SERC Grant Program  
Weatherization Assistance Program

<b>1. Grantee</b> City of Seattle Office of Housing PO Box 94725 Seattle, WA 98124-4725		<b>2. Grantee Doing Business As (optional)</b>	
<b>3. Grantee Representative</b> John Flynn, HomeWise Program Manager PO Box 94725 Seattle, Washington 98124-4725 206/684-0354 fax: 206/233-7119 john.flynn@seattle.gov		<b>4. Commerce Representative</b> Meredith Angeli Program Manager 360-725-2993 fax: 360-586-5880 Meredith.angeli@commerce.wa.gov PO Box 42525 1011 Plum Street SE Olympia, WA 98504-2525	
<b>5. Grant Amount</b> \$ 2,156,491 <b>Spending Authority:</b>	<b>6. Funding Source</b> Federal: <input checked="" type="checkbox"/> State: <input type="checkbox"/> Other: <input type="checkbox"/> N/A: <input type="checkbox"/>	<b>7. Start Date</b> Dec. 1, 2010	<b>8. End Date</b> March 31, 2012
<b>9. Federal Funds:</b> (as applicable)		<b>Federal Agency:</b> U.S. Dept. of Energy	
		<b>CFDA Number:</b> 81.042	
<b>10. Tax ID #</b> 91-6001278	<b>11. SWV #</b> SWV0004183	<b>12. UBI #</b>	<b>13. DUNS #</b> 009483561
<b>14. Grant Purpose</b> This grant provides American Recovery and Reinvestment Act funds to local weatherization agencies to expand the Weatherization Assistance Program to include materials, benefits, and renewable and domestic energy technologies not currently covered.			
COMMERCE, defined as the Department of Commerce, and the Grantee, as defined above, acknowledge and accept the terms of this Grant and attachments and have executed this Grant on the date below to start as of the date and year referenced above. The rights and obligations of both parties to this Grant are governed by this Grant and the following other documents incorporated by reference: Grantee Terms and Conditions including Attachment A-Scope of Work, Attachment B-Budget, Attachment C, Additional Provisions under the American Recovery and Reinvestment Act of 2009, Public Law 111-5. And, Exhibit A-Applicable Terms and Conditions.			
<b>FOR THE GRANTEE</b>  _____ Authorized Signature  _____ PRINTED Name and Title  _____ Date		<b>FOR COMMERCE</b>  _____ Dan McConnon Assistant Director  _____ Date  <b>APPROVED AS TO FORM ONLY</b> _____ Signature on File Sandra Adix Assistant Attorney General  _____ Dec. 1, 2010 Date	



## **SPECIAL TERMS AND CONDITIONS**

### **U.S. Department of Energy SERC Grant Program Weatherization Assistance Program**

#### **1. ACKNOWLEDGEMENT OF FEDERAL FUNDING**

The Grantee and any Subgrantees shall comply with the provisions below:

1. The Grantee agrees that any publication written, visual or audio excluding press releases, newsletters, and issue analyses which are developed totally or in part with funds provided under this Agreement, shall contain the following statement:

“Prepared with funds made available under the Weatherization Assistance Program, U.S. Department of Energy, Energy Independence and Security Act of 2007 (EISA). Section 411 (b), administered by the Washington State Department of Commerce.”

2. The Grantee agrees that one copy of any such publication will be submitted to COMMERCE to be placed on file and distributed as appropriate to other potential Subgrantees or interested parties. COMMERCE may waive this requirement for submission of any specific publication upon the submission of a request providing justification from the Grantee.

#### **2. GRANT MANAGEMENT**

The Representative for each of the parties shall be responsible for and shall be the contact person for all communications and billings regarding the performance of this Grant.

The Representative for COMMERCE and their contact information are identified on the Face Sheet of this Grant.

The Representative for the Grantee and their contact information are identified on the Face Sheet of this Grant.

#### **3. COMPENSATION**

COMMERCE shall pay an amount not to exceed the budget amount in Attachment B, Budget for the performance of all things necessary for or incidental to the performance of work as set forth in Attachment A, Scope of Work. Grantee's compensation for services rendered shall be based on the conditions set forth in Exhibit A, Applicable Terms and Conditions.

#### **4. BILLING PROCEDURES AND PAYMENT**

COMMERCE will pay Grantee upon acceptance of services provided and receipt of properly completed invoices, which shall be submitted to the Representative for COMMERCE in the amount of the actual expenditures from the previous month.

The invoices shall describe and document, to COMMERCE's satisfaction, a description of the work performed, the progress of the project, and fees. The invoice shall include the Grant Number. If expenses are invoiced, they shall provide a detailed breakdown of each type.

Payment shall be considered timely if made by COMMERCE within thirty (30) calendar days after receipt of properly completed invoices. Payment shall be sent to the address designated by the Grantee.

COMMERCE may, in its sole discretion, terminate the Grant or withhold payments claimed by the Grantee for services rendered if the Grantee fails to satisfactorily comply with any term or condition of this Grant.

If COMMERCE determines that a certain project or agency is not able to fulfill Sustainable Energy Resources for Consumers (SERC) obligations, COMMERCE may re-direct these funds to ensure

## SPECIAL TERMS AND CONDITIONS

### U.S. Department of Energy SERC Grant Program Weatherization Assistance Program

SERC projects are implemented successfully. The Grantee may request an initial working capital advance one month prior to planned expenditures.

The Grantee shall submit a Final Grant Closeout Report for each funding source that accurately reflects the work completed and funds expended during the program year. The Grantee shall submit hard copy reports to COMMERCE within 45 days after the program year closes.

Payments under this Grant shall be suspended if the Final Grant Closeout Report and Request for Reimbursement for the prior year Grant are not received by the due date.

#### Disallowed Costs

The Grantee is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its sub grantees.

#### Duplication of Billed Costs

The Grantee shall not bill COMMERCE for services performed under this Agreement, and COMMERCE shall not pay the Grantee, if the Grantee is entitled to payment or has been or will be paid by any other source, including grants, for that service.

## 5. INSURANCE

The Grantee shall provide insurance coverage as set out in this section. The intent of the required insurance is to protect the state of Washington should there be any claims, suits, actions, costs, damages or expenses arising from any loss, or negligent or intentional act or omission of the Grantee or Subgrantee, or agents of either, while performing under the terms of this Grant.

The insurance required shall be issued by an insurance company authorized to do business within the state of Washington. Except for Professional Liability or Errors and Omissions Insurance, the insurance shall name the state of Washington, its agents, officers, and employees as additional insureds under the insurance policy. All policies shall be primary to any other valid and collectable insurance. The Grantee shall instruct the insurers to give COMMERCE thirty (30) calendar days advance notice of any insurance cancellation or modification.

The Grantee shall submit to COMMERCE within fifteen (15) calendar days of the Grant start date, a certificate of insurance which outlines the coverage and limits defined in this insurance section. During the term of the Grant, the Grantee shall submit renewal certificates not less than thirty (30) calendar days prior to expiration of each policy required under this section.

The Grantee shall provide insurance coverage that shall be maintained in full force and effect during the term of this Grant, as follows:

**Commercial General Liability Insurance Policy.** Provide a Commercial General Liability Insurance Policy, including contractual liability, written on an occurrence basis, in adequate quantity to protect against legal liability arising out of Grant activity but no less than \$1,000,000 per occurrence. Additionally, the Grantee is responsible for ensuring that any Sub grantees provide adequate insurance coverage for the activities arising out of subgrants.

**Automobile Liability.** In the event that performance pursuant to this Grant involves the use of vehicles, owned or operated by the Grantee or its Sub grantee, automobile liability insurance shall be required. The minimum limit for automobile liability is \$1,000,000 per occurrence, using a Combined Single Limit for bodily injury and property damage.

**Professional Liability, Errors and Omissions Insurance.** The Grantee shall maintain Professional Liability or Errors and Omissions Insurance. The Grantee shall maintain minimum



## **SPECIAL TERMS AND CONDITIONS**

### **U.S. Department of Energy SERC Grant Program Weatherization Assistance Program**

limits of no less than \$1,000,000 per occurrence to cover all activities by the Grantee and licensed staff employed or under Grant to the Grantee. The state of Washington, its agents, officers, and employees need *not* be named as additional insureds under this policy.

**Fidelity Insurance.** Every officer, director, employee, or agent who is authorized to act on behalf of the Grantee for the purpose of receiving or depositing funds into program accounts or issuing financial documents, checks, or other instruments of payment for program costs shall be insured to provide protection against loss:

- A.** The amount of fidelity coverage secured pursuant to this Grant shall be \$100,000 or the highest of planned reimbursement for the Grant period, whichever is lowest. Fidelity insurance secured pursuant to this paragraph shall name COMMERCE as beneficiary.
- B.** Sub grantees that receive \$10,000 or more per year in funding through this Grant shall secure fidelity insurance as noted above. Fidelity insurance secured by Sub grantees pursuant to this paragraph shall name the Grantee as beneficiary.
- C.** The Grantee shall provide, at COMMERCE's request, copies of insurance instruments or certifications from the insurance issuing agency. The copies or certifications shall show the insurance coverage, the designated beneficiary, who is covered, the amounts, the period of coverage, and that COMMERCE will be provided thirty (30) days advance written notice of cancellation.

### **SELF INSURED GRANTEES ONLY**

Self-Insured/Liability Pool or Self-Insured Risk Management Program – With prior approval from COMMERCE, the Grantee may provide the coverage above under a self-insured/liability pool or self-insured risk management program. In order to obtain permission from COMMERCE, the Grantee shall provide: (1) a description of its self-insurance program, and (2) a certificate and/or letter of coverage that outlines coverage limits and deductibles. All self-insured risk management programs or self-insured/liability pool financial reports must comply with Generally Accepted Accounting Principles (GAAP) and adhere to accounting standards promulgated by: 1) Governmental Accounting Standards Board (GASB), 2) Financial Accounting Standards Board (FASB), and 3) the Washington State Auditor's annual instructions for financial reporting. Grantee's participating in joint risk pools shall maintain sufficient documentation to support the aggregate claim liability information reported on the balance sheet. The state of Washington, its agents, and employees need not be named as additional insured under a self-insured property/liability pool, if the pool is prohibited from naming third parties as additional insured.

Grantee shall provide annually to COMMERCE a summary of coverages and a letter of self insurance, evidencing continued coverage under Grantee's self-insured/liability pool or self-insured risk management program. Such annual summary of coverage and letter of self insurance will be provided on the anniversary of the start date of this Agreement.

### **INDEMNIFICATION/HOLD HARMLESS FOR SELF INSURED GRANTEES ONLY**

Each party to this Grant shall be responsible for its own acts and/or omissions and those of its officers, employees and agents. No party to this Grant shall be responsible for the acts and/or omissions of entities or individuals not a party to this Grant.

Subcontracts shall include a comprehensive indemnification clause holding harmless the Grantee, COMMERCE, the state of Washington, and their officers, employees and authorized agents.

## **SPECIAL TERMS AND CONDITIONS**

### **U.S. Department of Energy SERC Grant Program Weatherization Assistance Program**

#### **6. ORDER OF PRECEDENCE**

In the event of an inconsistency in this Grant, the inconsistency shall be resolved by giving precedence in the following order:

- Applicable federal and state of Washington statutes and regulations
- Special Terms and Conditions
- General Terms and Conditions
- COMMERCE Attachment A – Scope of Work
- Attachment B – Budget
- Attachment C - Additional Provisions under the American Recovery and Reinvestment Act of 2009, Public Law 111-5
- Exhibit A – Applicable Terms and Conditions

#### **7. ADDITIONAL BILLING GUIDANCE AND PAYMENT INFORMATION**

The Grantee payment system is based on monthly reimbursement in the amount of the actual expenditures from the previous month. No payment shall be made until COMMERCE receives an accurate and complete request for reimbursement form.

##### **ADMINISTRATIVE COSTS ALLOCATION**

Allowable administrative costs actually incurred in operating activities funded under this Grant may be charged to this Grant.

Administrative services shared by other programs shall be assigned to this Grant based on an allocation plan that reflects allowable administrative costs that support services provided under each Grant administered by COMMERCE. An approved current federal indirect cost rate may be applied up to the maximum administrative budget allowed.

##### **ALLOWABLE COSTS**

The statewide SERC funds expenditure average per unit must not exceed \$12,000. The maximum cost for any one unit should not exceed \$30,000 inclusive of all costs.

Allowable use of SERC Weatherization Assistance Program (WAP) funds shall include:

Administration Costs: Costs associated with those functions of a general nature not clearly identified with a particular program. These functions include planning, budgeting and accounting, and establishment and direction of Grantee policies, goals, and objectives.

Grantee administration costs can be a maximum of 5% of the SERC funds.

Program Operation: Costs that can be clearly identifiable with a program. Program operation costs include material and labor costs associated with installing SERC weatherization measures, making energy-related health and safety or weatherization related repairs, and other costs necessary to operate the WAP (often referred to as “program support”).

This funding is made available to **expand** the Program for materials, benefits, and renewable and domestic energy technologies **not** currently covered under the WAP. The WAP guidelines that define materials, benefits, and renewable energy systems that are currently covered by the Program are the following:

## **SPECIAL TERMS AND CONDITIONS**

### **U.S. Department of Energy SERC Grant Program Weatherization Assistance Program**

Training and Technical Assistance: Activities intended to maintain or increase the efficiency, quality, and effectiveness of the Weatherization Assistance Program at all levels. Such activities should be designed to maximize energy savings, minimize production costs, improve program management, and crew/Grantee "quality of work", and reduce the potential for waste, fraud, and mismanagement. Grantees should be the primary recipients of training and technical assistance activities. Training and technical assistance may include providing information concerning conservation practices to occupants of eligible dwelling units.

The Training and Technical Assistance funds already issued through a WAP ARRA grant may be used to provide training and technical assistance to WAP Grantees regarding SERC activities to the extent that the training is for enhancing the effectiveness of the provision of weatherization assistance to the dwelling units of low-income persons.

SERC funds may be used for the training of workforce to install SERC technologies for which Grantee/local agency has been approved and funded, and training of clients for proper operation and maintenance of the SERC technologies installed.

Liability Insurance: Costs associated with purchasing general personal liability, including Pollution Occurrence Insurance (POI), and property insurance and liability insurance covering personal injury and property damage for on-site work.

Audit: Audit costs are those associated with annual fiscal audits.

Health and Safety Measures and Repairs: Energy-related measures and repairs necessary to eliminate hazards within a structure, which by their remedy, allow for the installation of weatherization materials. Energy-related health and safety measures and repairs are intended to protect building occupants. Costs associated with Lead-Safe Weatherization (LSW) protocols are an acceptable health and safety budget item.

DOE intends that homes receiving SERC funds should be of a weatherization standard (have been weatherized with WAP or an equivalent level of services). If the unit has not previously been weatherized, the unit should be an adequate candidate for weatherization.

Moderate-income homes may have SERC materials/technologies installed. In these units, the local agency should ensure that the home is in a condition such that it would not be a "walk away" had the unit been eligible within WAP.

Energy-related health and safety costs and incidental repair costs are both allowable when necessary to ensure proper performance of the installed SERC measure. For any one unit, the combined costs for health and safety and incidental repairs should not exceed the cost of the installation of the SERC material/technology itself. The combined costs for health and safety and incidental repair shall not exceed 10% of the statewide average SERC cost per unit.

Weatherization-Related Repairs: Repairs necessary for the effective performance or preservation of weatherization materials.

## **SPECIAL TERMS AND CONDITIONS**

### **U.S. Department of Energy SERC Grant Program Weatherization Assistance Program**

#### **BUDGET REVISIONS**

The approved budget is included on the Grant and Grant Amendment Face Sheet.

The Grantee may cumulatively transfer up to five percent of the sum of all program line items among approved budget line items.

Budget revisions in excess of 5 percent must be submitted in writing (email acceptable) to, and approved by, COMMERCE before the Grantee submits expenditure reports reflecting the revisions. The Grantee must provide original budgets and proposed changes.

Prior approval from COMMERCE is required for the purchase of non-expendable personal property which costs over \$5,000.

#### **GRANT SPENDING LIMITS**

COMMERCE may establish spending limits on the total Grant award or on one or more budget categories within the Grant award.

#### **PROGRAM INCOME**

Program income generated under this Grant may be used for costs not included in the total approved budget, if COMMERCE determines such costs are directly related to the objectives of the federal statute under which the grant was awarded.

#### **PROHIBITIONS**

Funds awarded under this Grant shall not supplant other existing funding sources.

#### **PROPORTIONAL RETURN OF UNEXPENDED FUNDS**

A Grantee who returns unexpended funds to COMMERCE at the end of the Grant period shall return administrative and program operation funds in the same proportion as their share of the total Grant award.

#### **REDUCTION IN FUNDS**

If funding from the state, federal government or other source is withdrawn, reduced, reallocated, or limited, after the effective date of this Grant and prior to normal completion, COMMERCE may immediately and unilaterally terminate the Grant, withdraw funding, or renegotiate the Grant subject to those new funding limitations and conditions. COMMERCE shall promptly notify the Grantee of such termination, withdrawal of funds, or intent to renegotiate the Grant. If the source of funding for this Grant is eliminated on a temporary or permanent basis, COMMERCE will not be responsible for reimbursing the Grantee for any work performed after the receipt of the notification.

Failure of the Grantee to meet performance standards, production projections, or comply with federal or state requirements may result in reduction of funds.

## **SPECIAL TERMS AND CONDITIONS**

### **U.S. Department of Energy SERC Grant Program Weatherization Assistance Program**

#### **REQUIRED REPORTS**

The Grantee shall submit required reports by the dates due using required forms according to procedures issued by COMMERCE. These reports shall include, but not be limited to:

<u>Reports</u>	<u>Date Due</u>
1) Monthly SERC Requests for Reimbursement	The 15th of the month for the previous month's expenditures
2) Monthly Weatherization Report for Completed Units	The 15th of the month for the previous month's activities
3) OMB 1512	Quarterly, using existing report form
4) Federal Financial Report (FFR)	Quarterly, using existing report form
5) Final Grant Closeout Report	45 calendar days after the program year closes

The Grantee shall be obligated to submit closeout reports after the close of the Grant period, during the transfer of obligations to another Grantee, or upon termination of the Grant for any reason. See Termination Procedures, GENERAL TERMS AND CONDITIONS.

#### **8. APPLICABLE LAWS AND REGULATIONS**

In performing under this Grant, the Grantee shall comply with all applicable laws, ordinances, codes, regulations, and policies of local, state and federal governments, including, but not limited to:

- 1) State of Washington
  - State Budgeting, Accounting and Reporting System, Chapter 43.88 RCW.
  - Executive Order #83-01, Establishing Policies for Minority and Women's Business Enterprises.
  - Law Against Discrimination, Chapter 49.60 RCW.
  - Boards of directors or officers of nonprofit corporations—Liability—Limitations, RCW 4.24.264.
  - Office of Minority and Women's Business Enterprises, Chapter 39.19 RCW, Chapter 326-02 WAC.
  - Public Disclosure Act, Chapter 42.17 RCW.
  - Airborne contaminants, Chapter 296-841, WAC
  - Affirmative Action for Employment of Vietnam-era and Disabled Veterans, Laws of 1985, Chapter 43.43 RCW.
  - Chapter 70.103 RCW, Lead-based paint.
  - Chapter 365-230 WAC, Accreditation of lead-based paint training programs and the certification of firms and individuals conducting lead-based paint activities.
  - Regulations for Barrier Free Facilities, Chapter 51.50 WAC.

## **SPECIAL TERMS AND CONDITIONS**

### **U.S. Department of Energy SERC Grant Program Weatherization Assistance Program**

- 2) United States Department of Energy
  - Energy Conservation in Existing Buildings Act of 1976, as amended (Public Law 94-385; 42 USC 6851).
  - National Energy Conservation Policy Act of 1978, as amended (Public Law 95-619; 42 USC 1474 and 6861-6873).
  - Weatherization Assistance Program for Low-Income Persons, as amended (10 CFR 440, Final Rule).
  - Financial Assistance Rules, as amended (10 CFR 600).
- 3) Administration/Financial Management
  - Functions Guidelines for Finance and Compliance Audit of Federally Assisted Programs (GAO).
  - Standards for Audit of Governmental Organizations, Programs, Activities.
  - Audits 24 CFR part 570.492, 493, as applicable.
  - Audits of States, Local Governments, and Non-Profit Organizations. OMB Circular A-133.
  - Cost Principles Applicable to Grants and Contracts with State, Local, and Indian Tribal Governments. OMB Circular A-87, 2 CFR Part 225, Subpart A, Ch. II, part 225.
  - Grants and Cooperative Agreements with State and Local governments for State, Local and Indian Tribal Governments, OMB Circular A-102. Grants Management Common Rule (State and Local Government) 24 CFR Parts 24, 85, 87.
  - Uniform Administrative Requirements for Grants and Agreements with Nonprofit Organizations, OMB Circular A-110.
  - Cost Principles for Nonprofit Organizations, OMB Circular A-122, 2 CFR Part 230.
- 4) Affirmative Action/Laws Against Discrimination
  - Nondiscrimination in Benefits, Title VI of the Civil Rights Act of 1964, Public Law 88-352, 42 USC 2000d.
  - Age Discrimination Act of 1975, Public Law 94-135, 42 USC 6101-07, 45 CFR Subtitle A, Part 90.
  - Equal Employment Opportunity, Executive Order 11246, as amended by Executive Order 11375 and supplemented in U.S. Department of Labor regulations, 41 CFR 60.
  - Section 3, Housing and Urban Development Act of 1969, 12 USC 1701u (see 24 CFR 570.607(b)).
  - Employment Under Federal Contracts, Rehabilitation Act of 1973, Section 503, 29 USC 793.
  - Nondiscrimination under Federal Grants and Programs, Rehabilitation Act of 1973, Section 504, 29 USC Section 794.
  - 39 CFR, Part 777.22, Relocation Assistance for Displaced Persons, Displaced Persons - Title II and III of the Uniform Relocation Assistance and Real Property Acquisition Act of 1970, Public Law 91-846.
  - Americans with Disabilities Act of 1990, Public Law 101-336, 42 USC 12101, *et seq.*
  - Creating a National Women's Business Enterprise Policy, Executive Order 12138, 44 FR 29637.
  - Executive Order 11246, as amended by EO 11375, 11478, 12086 and 12102.
  - Fair Housing Act (42 USC 3601-19) and implementing regulations at 24 CFR part 100.

## **SPECIAL TERMS AND CONDITIONS**

### **U.S. Department of Energy SERC Grant Program Weatherization Assistance Program**

- Section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR Chapter 8.
  - Handicapped Employees of Government Contractors, Rehabilitation Act of 1973, Section 503, 29 USC 793.
  - Handicapped Recipients of Federal Financial Assistance, Rehabilitation Act of 1973, Section 504, 29 USC Section 794.
  - Minority Business Enterprises, 15 USC 631, and 41 CFR Chapter 60.
  - Nondiscrimination and Equal Opportunity, 24 CFR Part 583.
  - Nondiscrimination in employment, Title VII of the Civil Rights Act of 1964, Public Law 88-352, 42 USC, Chapter 21.
  - Nondiscrimination in Federally Assisted Programs, 10 CFR part 1040.
  - Nondiscrimination in Federally Assisted Construction Contracts, Executive Order 11246, 42 USC 2000e, as amended by Executive Order 11375, 41 CFR 60.
- 5) Conflicts of Interest
- Anti-Kickback Act, 41 USC 51-58.
- 6) Environmental Standards
- National Environmental Policy Act of 1969, 42 USC 4321 et seq. and the implementing regulations of 24 CFR 58 (HUD) and 40 CFR 1500 - 1518 (Council on Environmental Quality).
  - Lead-Based Paint Poisoning Prevention Act, 42 USC 4821-4846.
  - Lead-Safe Housing Rule, 24 CFR 35.
  - Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 USC 4851-4856.
  - Flood Disaster Protection Act of 1973, 42 USC 4001-4128.
- 7) Notification Concerning Historic Places Identification
- National Historic Preservation Act of 1966, as amended (16 USC 469a-1 et seq. and 470).
  - Executive Order 11593, Protection and Enhancement of the Cultural Environment; 1971, as amended.
- 8) Labor, Safety and Building Code Standards
- Federal Fair Labor Standards Act, 29 USC, Chapter 8.
  - Contract Work Hours and Safety Standards, 40 USC Subtitle II, Part A, Chapter 37.
  - Department of Labor regulations, 29 CFR Part 5.
  - All rental units assisted with federal funds must satisfy the requirements of applicable local, state, federal housing code requirements for the duration of the affordability period.
  - 29 CFR 1926.62, Lead in Construction.
- 9) Minority and Women-Owned Business Enterprises
- Creating a National Women's Business Enterprise Policy Executive Order 12138, 44 FR 29637, 3 CFR.
  - Minority Business Enterprise Development, Executive Order 12432, 48 FR 32551
  - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor, 41 CFR Chapter 60.
  - Minority Business Enterprises, Executive Order 11625, 15 U.S.C. 631, and 41 CFR 1-1.1310-2(a).

## **SPECIAL TERMS AND CONDITIONS**

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- 10) Notification Concerning Historic Places Identification
  - National Historic Preservation Act of 1966, as amended (16 USC 469a-1 et seq. and 470).
  - Executive Order 11593, Protection and Enhancement of the Cultural Environment; 1971, as amended.
- 11) Notification Concerning Violating Facilities
  - Environmental Protection Agency, 42 USC, Sec. 4321 et seq.
- 12) Political Activity
  - Hatch Political Activity Act, 5 USC 1501-8.
  - Executive Order 12250, 28 CFR 41.
  - Certification Regarding Lobbying, 24 CFR 87, Appendix A to Part 87.
  - Lobbying and Disclosure, 31 USC 1352.
- 13) Privacy
  - Privacy Act of 1974, 5 USC 552(a).

## **9. COMPLETION OF WEATHERIZATION WORK**

*A DOE Weatherized unit is a dwelling unit on which a DOE-approved energy audit or priority list has been performed. As funds allow, the appropriate measures installed on this unit have an SAVINGS-TO- INVESTMENT RATIO of 1.0 or greater, but also may include any necessary energy-related health and safety measures.*

The use of DOE funds on a unit may include but are not limited to auditing, testing, measure installation, inspection, use of DOE equipment, vehicles, or DOE provides the training and/or administration. Therefore, a dwelling unit that meets both the definition of a DOE Weatherized unit and has funds used directly on it must be counted as a DOE completed unit.

If Grantee proposes to implement SERC activities on homes previously weatherized, they may do so on homes that were weatherized with non-DOE funds without DOE approval. If Grantee's project approach is to return to homes previously weatherized with WAP funding, it will need approval through Commerce and the Grantee's DOE Project Officer.

SERC funds are to be spent to expand the Weatherization program beyond the materials, benefits and technologies currently covered by the WAP. Expanding the program is defined as using funds to:

- a. Implement technologies outside of Appendix A to Part 440 – Standards for Weatherization Materials (Appendix A).
- b. Implement technologies included in Appendix A, 10 CFR 440) but that do not meet current WAP Savings-to-Investment Ratio (SIR) requirements for the Grantee.

Grantees must have a protocol in place for the installation of the technologies they have proposed.

## **DOCUMENTED ELIGIBILITY**

No services shall be provided on a dwelling unit without documentation that the occupants are eligible for assistance under this program.

Moderate-income eligibility. If any Grantee projects are proposing to undertake SERC activities for moderate-income families, the definition of moderate income must be provided. This should match



## **SPECIAL TERMS AND CONDITIONS**

### **U.S. Department of Energy SERC Grant Program Weatherization Assistance Program**

what was provided in the original application for those States/Grantees that propose to serve these families.

#### **DOCUMENTS ON FILE**

Documents consistent with federal and state regulations, as applicable, shall be kept on file in the office of the local program and available for review. Such documents shall include, but not be limited to:

- 1) Articles of Incorporation/Tribal Charter
- 2) By-laws
- 3) IRS Nonprofit Status Certification
- 4) Latest Agency Audit
- 5) Insurance and Bonding Policies Required by the Grant

#### **GRANTEE MONITORING AND QUARTERLY PERFORMANCE REVIEW**

On-site monitoring of the Grantee's weatherization assistance program shall be performed annually by COMMERCE. More frequent Grantee monitoring shall be determined by COMMERCE and based on COMMERCE's risk assessments and program priorities. .

Monitoring visits include, but are not limited to:

- 1) Inspection of completed projects.
- 2) Program systems review.
- 3) Organizational business practices.

If COMMERCE determines that a certain project or agency will not be able to fulfill SERC obligations, COMMERCE may re-direct these funds to ensure SERC projects are implemented successfully.

The Grantee shall complete units efficiently, cost-effectively, and within COMMERCE standards. COMMERCE will review the Grantee's performance periodically by comparing:

- 1) Estimated units as listed in the current DOE Plan with targets submitted in the grant agreement.
- 2) Rate of expenditure to time remaining within the grant period.
- 3) Timely submittal of the Monthly Weatherization Report.
- 4) Monthly submittals of Requests for Reimbursement.

Failure to meet these expectations may result in COMMERCE taking appropriate actions, to include but not limited to withholding payments under this Grant.

#### **LEGAL RESIDENT STATUS ELIGIBILITY SCREENING**

The Grantee shall provide assistance and services to all qualified aliens (legal immigrants) if they meet other Weatherization Assistance Program requirements.

The Grantee, if designated a local government agency, must conduct citizen status verifications of applicants when the Department of Justice publishes Proposed Rule 63 FR 41662 (Proposed Rule on Verification of Eligibility for Public Benefits). As of this date this final rule has not been issued.

## **SPECIAL TERMS AND CONDITIONS**

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#### **PERFORMANCE STANDARDS AND LICENSING**

The Grantee shall comply with all applicable local, state, and federal licensing and accrediting requirements/standards and any other standard or criteria established by COMMERCE to assure quality of services necessary for the performance of the Grant and additional requirements contained in all documents incorporated by reference in the Grant.

The Grantee shall include these requirements in all approved sub-grants.

#### **PRIORITY POPULATIONS AND OUTREACH ACTIVITIES**

As funds allow, the Grantee shall assist households that meet eligibility criteria. The Grantee shall conduct outreach activities designed to inform eligible households of the Program.

Priority is given to identifying and providing weatherization assistance to the dwelling units of:

- 1) Elderly persons
- 2) Native Americans
- 3) Persons with disabilities
- 4) Children under six years of age
- 5) Persons hindered by communication barriers, such as those who do not understand English or do not have easy access to common public news media
- 6) High residential energy users
- 7) Households with a high-energy burden
  
- 8) Geographic Areas to be Served. Service shall be limited to eligible households in the geographic areas of the state described in the SERC amendment to the ARRA State Weatherization Assistance Plan.

Projects must meet the priorities listed in Section 411(b)(2) of EISA, as follows:

- 1) The expected effectiveness and benefits of the proposed project to low- and moderate-income energy consumers;
- 2) The potential for replication of successful results;
- 3) The impact on the health and safety and energy costs of consumers served; and
- 4) The extent of partnerships with other public and private entities that contribute to the resources and implementation of the program, including financial partnerships.

#### **RECORDS MAINTENANCE**

The Grantee shall maintain copies of all reimbursement requests by Sub grantees for eligible dwelling units with funds provided under this Grant.

The Grantee shall maintain records which disclose all costs for weatherization by dwelling unit. Where multiple funding sources are used, separate costs by funding source shall be either:

- 1) Identified for program operation, health and safety, weatherization-related repair, total costs, and average costs per unit.
- 2) Distributed based on a documented cost allocation plan.

## **SPECIAL TERMS AND CONDITIONS**

### **U.S. Department of Energy SERC Grant Program Weatherization Assistance Program**

#### **RELEASE OF CUSTOMER INFORMATION**

The Grantee must secure a generic waiver or a SERC-specific release for information on homes served under the SERC grant. If the Grantee waiver is generic, they may wish to collect an additional release for homes served under the WAP for the new work that was completed with SERC funds. Any homes not already served under WAP will need a release.

Grantees in SERC are encouraged to review the applicable form for WAP activities and consult with their respective counsels regarding the form's applicability to SERC projects.

The share of costs borne by each party or grant shall be recorded. All revenues and reimbursements received by the Grantee shall be recorded by source and amount.

See Records Maintenance, GENERAL TERMS AND CONDITIONS.

#### **TREATMENT OF HOMEOWNERS AND RENTERS**

To the extent possible, the Grantee shall treat homeowners and renters equitably.

No rental unit shall be weatherized without written permission of the owner.

Rents shall not be raised because of the increased value of the dwelling unit. Benefits of weatherization assistance will accrue primarily to low-income tenants and not result in an undue or excessive enhancement of the value of the dwelling unit.

#### **VOLUNTEERS**

The Grantee shall make a reasonable effort to use volunteers and other training or work program participants to supplement staff costs under this program.

#### **WRITTEN POLICIES, PROCEDURES, AND GUIDELINES**

Written policies, procedures, and guidelines consistent with federal and state regulations, as applicable, shall be kept on file in the office of the Grantee and available for review. Such policies, procedures, and guidelines shall include, but not be limited to:

- 1) Personnel
- 2) Job Descriptions
- 3) Organizational Chart
- 4) Travel
- 5) Fiscal Management
- 6) Affirmative Action Policy and Plan, including
  - a) Location of facilities and accessibility to target populations.
  - b) Provision for bilingual employees or volunteers, as appropriate

### **10. FEDERAL REQUIREMENTS**

#### **Conflicts of Interest and Kickbacks**

Employees, Sub grantees, and board or committee members shall not use, or give the appearance of using, their positions for the personal gain of themselves or those with whom they have family, business or other ties.

Employees, Sub grantees, and board or committee members shall not have or acquire any interest, direct or indirect, which would conflict with the performance of services under this Grant. The Grantee shall not employ or subgrant with persons who have conflicts of interest, nor appoint them as members of its governing board or advisory committee.

## **SPECIAL TERMS AND CONDITIONS**

### **U.S. Department of Energy SERC Grant Program Weatherization Assistance Program**

The Grantee is prohibited from inducing, by any means, people employed under this Grant or a subgrant to give up any part of the compensation to which they are otherwise entitled. (See Anti-Kickback Act, 18 USC 874.)

#### **Project Director**

Federal regulations require that COMMERCE be notified in writing prior to the designation of a new Project Director or a significant change in the responsibilities of the Project Director.

#### **Treatment of Assets**

The Grantee shall maintain records, perform inventories, and maintain control systems to prevent loss, damage, or theft of equipment, materials, and supplies.

The Grantee shall take the following actions to secure the financial interest of COMMERCE in items purchased with federal funds awarded to local agencies pursuant to this Grant:

1. The Grantee shall name COMMERCE as lien holder on certificates of title for motor vehicles. (RCW 46.12.095) Copies of certificates of title for equipment shall be submitted to COMMERCE with the Expenditure Report on which they are claimed.
2. Every five years, beginning in calendar year 1992, the Grantee will complete and submit to COMMERCE for approval signed Uniform Commercial Code (UCC1) Financing Statement Forms, listing equipment other than motor vehicles and fixtures described under section 3 below, with purchase costs of \$5,000 or more, and purchased with funds under the Grant and prior grants from the same funding source, naming COMMERCE as Secured Party. The UCC1 Statements will include the phrase: "all presently owned and after-acquired inventory and equipment." COMMERCE will determine in which items it wishes to continue its secured interest from previous filings. COMMERCE will sign the statements and file them with the Department of Licensing, UCC Division, Olympia, WA 98504. (RCW 62A.9A.501)
3. The Grantee shall complete and submit to COMMERCE for approval signed Uniform Commercial Code (UCC2), Financing Statement Forms for fixtures (assets attached to realty) with acquisition costs of \$5,000 or more and purchased with funds under the Grant, naming COMMERCE as Secured Party. If approved, COMMERCE will sign the statements and file them with the local county Auditor's Office in the county where the real estate is located. (RCW 62A.501)
4. COMMERCE and the Grantee will keep copies of all UCC filings.
5. The Grantee shall maintain records, perform inventories, and maintain control systems to prevent loss, damage, or theft of equipment, materials, and supplies. A Grantee which is a local government shall keep property records in accordance with OMB Circulars A-102, Uniform Administrative Requirements for Grants in Aid for State and Local Governments, for all purchases funded by this Grant. A Grantee which is a nonprofit organization shall keep property records in accordance with OMB Circular A-110, Uniform Administrative Requirements for Grants and Agreements with Nonprofit Agencies for all purchases funded by this Grant.
6. A Non-Expendable Equipment Inventory Report shall also be submitted to COMMERCE as required. COMMERCE's interest in equipment purchased under this Grant and prior grants from the same funding source is automatically transferred forward to the next grant year at the close of this Grant period.

## **SPECIAL TERMS AND CONDITIONS**

### **U.S. Department of Energy SERC Grant Program Weatherization Assistance Program**

7. In the event of loss, destruction, or damage to any property purchased under this Grant, the Grantee shall notify COMMERCE and shall take all reasonable steps to protect that property from further damage. Unless otherwise directed by COMMERCE, the Grantee shall surrender to COMMERCE all property purchased under this Grant prior to settlement upon completion, termination, or cancellation of this Grant.
8. All purchases of equipment with a useful life of more than two years and an acquisition cost of \$5,000 or more per unit require prior COMMERCE approval.

#### Work Hours and Safety Standards

The Grantee shall compute the wages of every laborer on a project financed by funds under this Grant on the basis of a standard workday of eight hours and a standard work week of 40 hours, unless otherwise specified in a labor management agreement or the personnel policies of the Grantee.

No laborer shall be required to work in surroundings or under conditions which are unsanitary, hazardous, or dangerous to health or safety. See Work Hours and Safety Standards Act, Sections 103 and 107, 40 USC §§ 327-330, and Department of Labor regulations at 29 CFR Part 5.



## **GENERAL TERMS AND CONDITIONS**

### **U.S. Department of Energy SERC Grant Program Weatherization Assistance Program**

#### **1. DEFINITIONS**

As used throughout this Grant, the following terms shall have the meaning set forth below:

- A. "Authorized Representative" shall mean the Director and/or the designee authorized in writing to act on the Director's behalf.
- B. "Cognizant State Agency" shall mean the state agency from which the sub-recipient receives federal financial assistance. If funds are received from more than one state agency, the cognizant state agency shall be the agency that contributes the largest portion of federal financial assistance to the sub-recipient.
- C. "COMMERCE" shall mean the Department of Commerce.
- D. "Grantee" shall mean the entity identified on the face sheet performing service(s) under this Grant, and shall include all employees and agents of the Grantee.
- E. "Personal Information" shall mean information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers, and any financial identifiers.
- F. "State" shall mean the state of Washington.
- G. "Subgrantee" shall mean one not an employee of the Grantee, who is performing all or part of those services under this Grant under a separate Grant with the Grantee. The terms "subgrantee" and "Sub grantees" means subgrantee(s) in any tier.
- H. "Subrecipient" shall mean a non-federal entity that expends federal awards received from a pass-through entity to carry out a federal program, but does not include an individual that is a beneficiary of such a program. It also excludes vendors that receive federal funds in exchange for goods and/or services in the course of normal trade or commerce.
- I. "Vendor" is an entity that agrees to provide the amount and kind of services requested by COMMERCE; provides services under the Grant only to those beneficiaries individually determined to be eligible by COMMERCE and, provides services on a fee-for-service or per-unit basis with contractual penalties if the entity fails to meet program performance standards.

#### **2. ALL WRITINGS CONTAINED HEREIN**

This Grant contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Grant shall be deemed to exist or to bind any of the parties hereto.

#### **3. AMENDMENTS**

This Grant may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

#### **4. AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, also referred to as the "ADA" 28 CFR Part 35**

The Grantee must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

## **GENERAL TERMS AND CONDITIONS**

### **U.S. Department of Energy SERC Grant Program Weatherization Assistance Program**

#### **5. APPROVAL**

This Grant shall be subject to the written approval of COMMERCE's authorized representative and shall not be binding until so approved. The Grant may be altered, amended, or waived only by a written amendment executed by both parties.

#### **6. ASSIGNMENT**

Neither this Grant, nor any claim arising under this Grant, shall be transferred or assigned by the Grantee without prior written consent of COMMERCE.

#### **7. ATTORNEYS' FEES**

Unless expressly permitted under another provision of the Grant, in the event of litigation or other action brought to enforce Grant terms, each party agrees to bear its own attorneys fees and costs.

#### **8. AUDIT**

##### **A. General Requirements**

Grantee's are to procure audit services based on the following guidelines.

The Grantee shall maintain its records and accounts so as to facilitate the audit requirement and shall ensure that Sub grantees also maintain auditable records.

The Grantee is responsible for any audit exceptions incurred by its own organization or that of its Sub grantees.

COMMERCE reserves the right to recover from the Grantee all disallowed costs resulting from the audit.

As applicable, Grantee's required to have an audit must ensure the audits are performed in accordance with Generally Accepted Auditing Standards (GAAS); Government Auditing Standards (the Revised Yellow Book) developed by the Comptroller General.

Responses to any unresolved management findings and disallowed or questioned costs shall be included with the audit report. The Grantee must respond to COMMERCE requests for information or corrective action concerning audit issues within thirty (30) days of the date of request.

##### **B. Federal Funds Requirements - OMB Circular A-133 Audits of States, Local Governments and Non-Profit Organizations**

Grantees expending \$500,000 or more in a fiscal year in federal funds from all sources, direct and indirect, are required to have an audit conducted in accordance with Office of Management and Budget (OMB) Revised Circular A-133 "Audits of States, Local Governments, and Non-Profit Organizations." Revised OMB A-133 requires the Grantees to provide the auditor with a schedule of Federal Expenditure for the fiscal year(s) being audited. The Schedule of State Financial Assistance must be included. Both schedules include:

- Grantor agency name
- Federal agency
- Federal program name
- Other identifying agreement numbers
- Catalog of Federal Domestic Assistance (CFDA) number
- Grantor Grant number
- Total award amount including amendments (total grant award)



## GENERAL TERMS AND CONDITIONS

### U.S. Department of Energy SERC Grant Program Weatherization Assistance Program

Beginning balance  
Current year revenues  
Current year expenditures  
Ending balance  
Program total

If the Grantee is a state or local government entity, the Office of the State Auditor shall conduct the audit. Audits of non-profit organizations are to be conducted by a certified public accountant selected by the Grantee in accordance with OMB Circular A-110 "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations."

The Grantee shall include the above audit requirements in any subgrants.

In any case, the Grantee's financial records must be available for review by COMMERCE.

#### **C. Documentation Requirements**

The Grantee must send a copy of any required audit Reporting Package as described in OMB Circular A-133, Part C, Section 320(c) no later than nine (9) months after the end of the Grantee's fiscal year(s) to:

Department of Commerce  
ATTN: Audit Review and Resolution Office  
1011 Plum St. SE  
PO Box 48300  
Olympia WA 98504-8300

In addition to sending a copy of the audit, when applicable, the Grantee must include:

- Corrective action plan for audit findings within three (3) months of the audit being received by COMMERCE.
- Copy of the Management Letter.

#### **9. CERTIFICATION REGARDING DEBARMENT, SUSPENSION OR INELIGIBILITY AND VOLUNTARY EXCLUSION—PRIMARY AND LOWER TIER COVERED TRANSACTIONS**

1. Grantee, defined as the primary participant and its principals, certifies by signing these General Terms and Conditions that to the best of its knowledge and belief that they:
  - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.
  - b. Have not within a three-year period preceding this grant, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction, violation of Federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice;
  - c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, state, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this section; and
  - d. Have not within a three-year period preceding the signing of this grant had one or more public transactions (Federal, state, or local) terminated for cause of default.

## GENERAL TERMS AND CONDITIONS

### U.S. Department of Energy SERC Grant Program Weatherization Assistance Program

2. Where the Grantee is unable to certify to any of the statements in this grant, the Grantee shall attach an explanation to this grant.
3. The Grantee agrees by signing this grant that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by COMMERCE.
4. The Grantee further agrees by signing this grant that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," as follows, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions:

#### **LOWER TIER COVERED TRANSACTIONS**

- a) The lower tier Grantee certifies, by signing this Grant that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
  - b) Where the lower tier Grantee is unable to certify to any of the statements in this Grant, such Grantee shall attach an explanation to this Grant.
5. The terms **covered transaction, debarred, suspended, ineligible, lower tier covered transaction, person, primary covered transaction, principal, and voluntarily excluded**, as used in this section, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the State for assistance in obtaining a copy of these regulations.

#### **10. CONFIDENTIALITY/SAFEGUARDING OF INFORMATION**

- A. "Confidential Information" as used in this section includes:
  1. All material provided to the Grantee by COMMERCE that is designated as "confidential" by COMMERCE;
  2. All material produced by the Grantee that is designated as "confidential" by COMMERCE; and
  3. All personal information in the possession of the Grantee that may not be disclosed under state or federal law. "Personal information" includes but is not limited to information related to a person's name, health, finances, education, business, use of government services, addresses, telephone numbers, social security number, driver's license number and other identifying numbers, and "Protected Health Information" under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA).
- B. The Grantee shall comply with all state and federal laws related to the use, sharing, transfer, sale, or disclosure of Confidential Information. The Grantee shall use Confidential Information solely for the purposes of this Grant and shall not use, share, transfer, sell or disclose any Confidential Information to any third party except with the prior written consent of COMMERCE or as may be required by law. The Grantee shall take all necessary steps to assure that Confidential Information is safeguarded to prevent unauthorized use, sharing, transfer, sale or disclosure of Confidential Information or violation of any state or federal laws related thereto. Upon request, the Grantee shall provide COMMERCE with its policies and procedures on confidentiality. COMMERCE may require changes to such policies and procedures as they apply to this Grant whenever COMMERCE reasonably determines that changes are necessary to prevent unauthorized disclosures. The Grantee shall make the changes within the time period specified by COMMERCE. Upon request, the Grantee shall immediately return to COMMERCE any Confidential Information that COMMERCE reasonably determines has not been adequately protected by the Grantee against unauthorized disclosure.

## **GENERAL TERMS AND CONDITIONS**

### **U.S. Department of Energy SERC Grant Program Weatherization Assistance Program**

- C. Unauthorized Use or Disclosure.** The Grantee shall notify COMMERCE within five (5) working days of any unauthorized use or disclosure of any confidential information, and shall take necessary steps to mitigate the harmful effects of such use or disclosure.

#### **11. CONFORMANCE**

If any provision of this Grant violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

#### **12. COPYRIGHT PROVISIONS**

Unless otherwise provided, all Materials produced under this Grant shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by COMMERCE. COMMERCE shall be considered the author of such Materials. In the event the Materials are not considered "works for hire" under the U.S. Copyright laws, the Grantee hereby irrevocably assigns all right, title, and interest in all Materials, including all intellectual property rights, moral rights, and rights of publicity to COMMERCE effective from the moment of creation of such Materials.

"Materials" means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. "Ownership" includes the right to copyright, patent, register and the ability to transfer these rights.

For Materials that are delivered under the Grant, but that incorporate pre-existing materials not produced under the Grant, the Grantee hereby grants to COMMERCE a nonexclusive, royalty-free, irrevocable license (with rights to sublicense to others) in such Materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The Grantee warrants and represents that the Grantee has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to COMMERCE.

The Grantee shall exert all reasonable effort to advise COMMERCE, at the time of delivery of Materials furnished under this Grant, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this Grant. The Grantee shall provide COMMERCE with prompt written notice of each notice or claim of infringement received by the Grantee with respect to any Materials delivered under this Grant. COMMERCE shall have the right to modify or remove any restrictive markings placed upon the Materials by the Grantee.

#### **13. DISALLOWED COSTS**

The Grantee is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its Sub grantees.

#### **14. DISPUTES**

Except as otherwise provided in this Grant, when a dispute arises between the parties and it cannot be resolved by direct negotiation, either party may request a dispute hearing with COMMERCE's Director, who may designate a neutral person to decide the dispute.

The request for a dispute hearing must:

- be in writing;
- state the disputed issues;
- state the relative positions of the parties;
- state the Grantee's name, address, and Grant number; and

## **GENERAL TERMS AND CONDITIONS**

### **U.S. Department of Energy SERC Grant Program Weatherization Assistance Program**

- be mailed to the Director and the other party's (respondent's) Grant Representative within three (3) working days after the parties agree that they cannot resolve the dispute.

The respondent shall send a written answer to the requestor's statement to both the Director or the Director's designee and the requestor within five (5) working days.

The Director or designee shall review the written statements and reply in writing to both parties within ten (10) working days. The Director or designee may extend this period if necessary by notifying the parties.

The decision shall not be admissible in any succeeding judicial or quasi-judicial proceeding.

The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.

Nothing in this Grant shall be construed to limit the parties' choice of a mutually acceptable alternate dispute resolution (ADR) method in addition to the dispute hearing procedure outlined above.

#### **15. DUPLICATE PAYMENT**

The Grantee certifies that work to be performed under this Grant does not duplicate any work to be charged against any other Grant, Subgrant, or other source.

#### **16. EQUAL OPPORTUNITY TREATMENT FOR FAITH BASED ORGANIZATIONS**

The Grantee agrees to comply with the applicable requirements of 28 CFR Part 38, the Department of Justice regulation.

#### **17. ETHICS/CONFLICTS OF INTEREST**

In performing under this Grant, the Grantee shall assure compliance with the Ethics in Public Service Act (Chapter 42.52 RCW) and any other applicable state or federal law related to ethics or conflicts of interest.

#### **18. GOVERNING LAW AND VENUE**

This Grant shall be construed and interpreted in accordance with the laws of the state of Washington, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

#### **19. INDEMNIFICATION**

To the fullest extent permitted by law, the Grantee shall indemnify, defend, and hold harmless the state of Washington, COMMERCE, all other agencies of the state and all officers, agents and employees of the state, from and against all claims or damages for injuries to persons or property or death arising out of or incident to the performance or failure to perform the Grant. The Grantee's obligation to indemnify, defend, and hold harmless includes any claim by the Grantee's agents, employees, representatives, or any Subgrantee or its agents, employees, or representatives.

The Grantee's obligation to indemnify, defend, and hold harmless shall not be eliminated by any actual or alleged concurrent negligence of the state or its agents, agencies, employees and officers.

Subgrant's shall include a comprehensive indemnification clause holding harmless the Grantee, COMMERCE, the state of Washington, its officers, employees and authorized agents.

The Grantee waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless the state and its agencies, officers, agents or employees.

## **GENERAL TERMS AND CONDITIONS**

### **U.S. Department of Energy SERC Grant Program Weatherization Assistance Program**

#### **20. INDEPENDENT CAPACITY OF THE GRANTEE**

The parties intend that an independent Contractor relationship will be created by this Grant. The Grantee and its employees or agents performing under this Grant are not employees or agents of the state of Washington or COMMERCE. The Grantee will not hold itself out as or claim to be an officer or employee of COMMERCE or of the state of Washington by reason hereof, nor will the Grantee make any claim of right, privilege or benefit which would accrue to such officer or employee under law. Conduct and control of the work will be solely with the Grantee.

#### **21. INDUSTRIAL INSURANCE COVERAGE**

The Grantee shall comply with all applicable provisions of Title 51 RCW, Industrial Insurance. If the Grantee fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, COMMERCE may collect from the Grantee the full amount payable to the Industrial Insurance Accident Fund. COMMERCE may deduct the amount owed by the Grantee to the accident fund from the amount payable to the Grantee by COMMERCE under this Grant, and transmit the deducted amount to the Department of Labor and Industries, (L&I) Division of Insurance Services. This provision does not waive any of L&I's rights to collect from the Grantee.

#### **LAWS**

The Grantee shall comply with all applicable laws, ordinances, codes, regulations, and policies of local, state, and federal governments, as now or hereafter amended, including, but not limited to:

##### **United States Laws, Regulations and Circulars (Federal)**

##### **A. Audits**

Office of Management and Budget (OMB) Revised Circular A-133 "Audits of States. Local Governments, and Non-Profit Organizations."

##### **B. Labor and Safety Standards**

Convict Labor, 18 U.S.C. 751, 752, 4081, 4082.

Drug-Free Workplace Act of 1988, 41 USC 701 et seq.

Federal Fair Labor Standards Act, 29 U.S.C. 201 et seq.

Work Hours and Safety Act of 1962, 40 U.S.C. 327-330 and Department of Labor Regulations, 29 CFR Part 5.

##### **C. Laws against Discrimination**

Age Discrimination Act of 1975, Public Law 94-135, 42 U.S.C. 6101-07, 45 CFR Part 90  
Nondiscrimination in Federally Assisted Programs.

Americans with Disabilities Act of 1990, Public Law 101-336

Equal Employment Opportunity, Executive Order 11246, as amended by Executive Order 11375 and supplemented in U.S. Department of Labor Regulations, 41 CFR Chapter 60.

Executive Order 11246, as amended by EO 11375, 11478, 12086 and 12102.

## **GENERAL TERMS AND CONDITIONS**

### **U.S. Department of Energy SERC Grant Program Weatherization Assistance Program**

Handicapped Employees of Government Contractors, Rehabilitation Act of 1973, Section 503, 29 U.S.C. 793.

Handicapped Recipients of Federal Financial Assistance, Rehabilitation Act of 1973, Section 504, 29 U.S.C. Section 794.

Minority Business Enterprises, Executive Order 11625, 15 U.S.C. 631).

Minority Business Enterprise Development, Executive Order 12432, 48 FR 32551.

Nondiscrimination and Equal Opportunity, 24 CFR part 5.105(a).

Nondiscrimination in benefits, Title VI of the Civil Rights Act of 1964, Public Law 88-352, 42 U.S.C. 2002d et seq, 24 CFR Part 1.

Nondiscrimination in employment, Title VII of the Civil Rights Act of 1964, Public Law 88-352.

Nondiscrimination in Federally Assisted Construction Contracts, Executive Order 11246, 42 U.S.C. 2000e, as amended by Executive Order 11375, 41 CFR Chapter 60.

Section 3, Housing and Urban Development Act of 1969, 12 USC 17001u (See 24 CFR 570.607(b)).

#### **D. Office of Management and Budget Circulars**

Cost Principles for State, Local and Indian Tribal Governments, OMB Circular A-87, 2 CFR, Part 225.

Cost Principles for Nonprofit Organizations, OMB Circular A-122, (if the Grantee is a nonprofit organization).

Grants and Cooperative Agreements with State and Local Governments, OMB Circular A-102, (if the Grantee is a local government or federally recognized Indian tribal government).

Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Nonprofit Organizations, OMB Circular A-110.

#### **E. Other**

Anti-Kickback Act, 18 U.S.C. 874, 40 U.S.C. 276b, 276c; 41 U.S.C. 51-54.

Governmental Guidance for New Restrictions on Lobbying; Interim Final Guidance, Federal Register 1, Vol. 54, No. 243\Wednesday, December 20, 1989.

Hatch Political Activity Act, 5 U.S.C. 1501-8.

Internal Revenue Service Rules, August 31, 1990.

Lobbying and Disclosure, 42 USC 3537a and 3545 and 31 USC 1352. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)-Contractors who apply or bid for an award of \$100,000 or more must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or other award covered by 31 U.S.C. 1352. Each tier must disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

Non-Supplanting Federal Funds.

Section 8 Housing Assistance Payments Program.

#### **F. Privacy**

Privacy Act of 1974, 5 U.S.C. 522(a)(5).

## **GENERAL TERMS AND CONDITIONS**

### **U.S. Department of Energy SERC Grant Program Weatherization Assistance Program**

#### **Washington State Laws and Regulations**

- A.** Affirmative action, RCW 41.06.020 (11).
- B.** Boards of directors or officers of non-profit corporations – Liability - Limitations, RCW 4.24.264.
- C.** Disclosure-campaign finances-lobbying, Chapter 42.17 RCW.
- D.** Discrimination-human rights commission, Chapter 49.60 RCW.
- E.** Ethics in public service, Chapter 42.52 RCW.
- F.** Office of minority and women’s business enterprises, Chapter 39.19 RCW and Chapter 326-02 WAC.  
Open public meetings act, Chapter 42.30 RCW.
- G.** Public records act, Chapter 42.56 RCW.
- H.** State budgeting, accounting, and reporting system, Chapter 43.88 RCW.

#### **LICENSING, ACCREDITATION AND REGISTRATION**

The Grantee shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements or standards necessary for the performance of this Grant.

#### **22. LIMITATION OF AUTHORITY**

Only the Authorized Representative or Authorized Representative’s designee by writing (designation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Grant.

#### **23. Local Public Transportation Coordination**

Where applicable, Grantee shall participate in local public transportation forums and implement strategies designed to ensure access to services.

#### **24. NONCOMPLIANCE WITH NONDISCRIMINATION LAWS**

During the performance of this Grant, the Grantee shall comply with all federal, state, and local nondiscrimination laws, regulations and policies. In the event of the Grantee’s non-compliance or refusal to comply with any nondiscrimination law, regulation or policy, this Grant may be rescinded, canceled or terminated in whole or in part, and the Grantee may be declared ineligible for further Grants with the state. The Grantee shall, however, be given a reasonable time in which to cure this noncompliance. Any dispute may be resolved in accordance with the “Disputes” procedure set forth herein.

#### **25. POLITICAL ACTIVITIES**

Political activity of Grantee employees and officers are limited by the State Campaign Finances and Lobbying provisions of Chapter 42.17 RCW and the Federal Hatch Act, 5 USC 1501 - 1508.

No funds may be used under this Grant for working for or against ballot measures or for or against the candidacy of any person for public office.

#### **26. PROCUREMENT STANDARDS FOR FEDERALLY FUNDED PROGRAMS**

A Grantee which is a local government or Indian Tribal government must establish procurement policies and procedures in accordance with OMB Circulars A-102, Uniform Administrative Requirements for Grants in Aid for State and Local Governments, for all purchases funded by this Grant.

## **GENERAL TERMS AND CONDITIONS**

### **U.S. Department of Energy SERC Grant Program Weatherization Assistance Program**

A Grantee which is a nonprofit organization shall establish procurement policies in accordance with OMB Circular A-110, Uniform Administrative Requirements for Grants and Agreements with Nonprofit Agencies, for all purchases funded by this Grant.

The Grantee's procurement system should include at least the following:

1. A code or standard of conduct that shall govern the performance of its officers, employees, or agents engaged in the awarding of Grants using federal funds.
2. Procedures that ensure all procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition.
3. Minimum procedural requirements, as follows:
  - a. Follow a procedure to assure the avoidance of purchasing unnecessary or duplicative items.
  - b. Solicitations shall be based upon a clear and accurate description of the technical requirements of the procured items.
  - c. Positive efforts shall be made to use small and minority-owned businesses.
  - d. The type of procuring instrument (fixed price, cost reimbursement) shall be determined by the Grantee, but must be appropriate for the particular procurement and for promoting the best interest of the program involved.
  - e. Subgrants shall be made only with reasonable Sub grantees who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement.
  - f. Some form of price or cost analysis should be performed in connection with every procurement action.
  - g. Procurement records and files for purchases shall include all of the following:
    - 1) Grantees selection or rejection.
    - 2) The basis for the cost or price.
    - 3) Justification for lack of competitive bids if offers are not obtained.
  - h. A system for Grant administration to ensure Grantee conformance with terms, conditions and specifications of this Grant, and to ensure adequate and timely follow-up of all purchases.
4. Grantee and Sub grantees must receive prior approval from COMMERCE for using funds from this Grant to enter into a sole source Grant or a Grant where only one bid or proposal is received when value of this Grant is expected to exceed \$5,000.

Prior approval requests shall include a copy of proposed Grants and any related procurement documents and justification for non-competitive procurement, if applicable.

#### **27. Prohibition Against Payment of Bonus or Commission**

The funds provided under this Grant shall not be used in payment of any bonus or commission for the purpose of obtaining approval of the application for such funds or any other approval or concurrence under this Grant provided, however, that reasonable fees or bona fide technical consultant, managerial, or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as project costs.

#### **28. PUBLICITY**

The Grantee agrees not to publish or use any advertising or publicity materials in which the state of Washington or COMMERCE's name is mentioned, or language used from which the connection with the



## **GENERAL TERMS AND CONDITIONS**

### **U.S. Department of Energy SERC Grant Program Weatherization Assistance Program**

state of Washington's or COMMERCE's name may reasonably be inferred or implied, without the prior written consent of COMMERCE.

#### **29. RECAPTURE**

In the event that the Grantee fails to perform this Grant in accordance with state laws, federal laws, and/or the provisions of this Grant, COMMERCE reserves the right to recapture funds in an amount to compensate COMMERCE for the noncompliance in addition to any other remedies available at law or in equity.

Repayment by the Grantee of funds under this recapture provision shall occur within the time period specified by COMMERCE. In the alternative, COMMERCE may recapture such funds from payments due under this Grant.

#### **30. RECORDS MAINTENANCE**

The Grantee shall maintain all books, records, documents, data and other evidence relating to this Grant and performance of the services described herein, including but not limited to accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Grant. Grantee shall retain such records for a period of six years following the date of final payment.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been finally resolved.

#### **31. REGISTRATION WITH DEPARTMENT OF REVENUE**

If required by law, the Grantee shall complete registration with the Washington State Department of Revenue.

#### **32. RIGHT OF INSPECTION**

At no additional cost all records relating to the Grantee's performance under this Grant shall be subject at all reasonable times to inspection, review, and audit by COMMERCE, the Office of the State Auditor, and federal and state officials so authorized by law, in order to monitor and evaluate performance, compliance, and quality assurance under this Grant. The Grantee shall provide access to its facilities for this purpose.

#### **33. SAVINGS**

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Grant and prior to normal completion, COMMERCE may terminate the Grant under the "Termination for Convenience" clause, without the ten business day notice requirement. In lieu of termination, the Grant may be amended to reflect the new funding limitations and conditions.

#### **34. SEVERABILITY**

If any provision of this Grant or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Grant that can be given effect without the invalid provision, if such remainder conforms to the requirements of law and the fundamental purpose of this Grant and to this end the provisions of this Grant are declared to be severable.

#### **35. SUBGRANTING**

The Grantee may only subgrant work contemplated under this Grant if it obtains the prior written approval of COMMERCE.

## **GENERAL TERMS AND CONDITIONS**

### **U.S. Department of Energy SERC Grant Program Weatherization Assistance Program**

If COMMERCE approves subgranting, the Grantee shall maintain written procedures related to subgranting, as well as copies of all subgrants and records related to subgrants. For cause, COMMERCE in writing may: (a) require the Grantee to amend its subgranting procedures as they relate to this Grant; (b) prohibit the Grantee from subgranting with a particular person or entity; or (c) require the Grantee to rescind or amend a subgrant.

Every subgrant shall bind the Subgrantee to follow all applicable terms of this Grant. The Grantee is responsible to COMMERCE if the Subgrantee fails to comply with any applicable term or condition of this Grant. The Grantee shall appropriately monitor the activities of the Subgrantee to assure fiscal conditions of this Grant. In no event shall the existence of a subGrant operate to release or reduce the liability of the Grantee to COMMERCE for any breach in the performance of the Grantee's duties.

Every subgrant shall include a term that COMMERCE and the State of Washington are not liable for claims or damages arising from a Subgrantee's performance of the subgrant.

#### **36. SURVIVAL**

The terms, conditions, and warranties contained in this Grant that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Grant shall so survive.

#### **37. TAXES**

All payments accrued on account of payroll taxes, unemployment contributions, the Grantee's income or gross receipts, any other taxes, insurance or expenses for the Grantee or its staff shall be the sole responsibility of the Grantee.

#### **38. TERMINATION FOR CAUSE / SUSPENSION**

In event COMMERCE determines that the Grantee failed to comply with any term or condition of this Grant, COMMERCE may terminate the Grant in whole or in part upon written notice to the Grantee. Such termination shall be deemed "for cause." Termination shall take effect on the date specified in the notice.

In the alternative, COMMERCE upon written notice may allow the Grantee a specific period of time in which to correct the non-compliance. During the corrective-action time period, COMMERCE may suspend further payment to the Grantee in whole or in part, or may restrict the Grantee's right to perform duties under this Grant. Failure by the Grantee to take timely corrective action shall allow COMMERCE to terminate the Grant upon written notice to the Grantee.

"Termination for Cause" shall be deemed a "Termination for Convenience" when COMMERCE determines that the Grantee did not fail to comply with the terms of the Grant or when COMMERCE determines the failure was not caused by the Grantee's actions or negligence.

If the Grant is terminated for cause, the Grantee shall be liable for damages as authorized by law, including, but not limited to, any cost difference between the original Grant and the replacement Grant, as well as all costs associated with entering into the replacement Grant (i.e., competitive bidding, mailing, advertising, and staff time).

#### **39. TERMINATION FOR CONVENIENCE**

Except as otherwise provided in this Grant COMMERCE may, by ten (10) business days written notice, beginning on the second day after the mailing, terminate this Grant, in whole or in part. If this Grant is so terminated, the Grantor shall be liable only for payment required under the terms of this Grant for services rendered or goods delivered prior to the effective date of termination.

#### **40. TERMINATION PROCEDURES**

## **GENERAL TERMS AND CONDITIONS**

### **U.S. Department of Energy SERC Grant Program Weatherization Assistance Program**

After receipt of a notice of termination, except as otherwise directed by COMMERCE, the Grantee shall:

- A.** Stop work under the Grant on the date, and to the extent specified, in the notice;
- B.** Place no further orders or subGrants for materials, services, or facilities related to the Grant;
- C.** Assign to COMMERCE all of the rights, title, and interest of the Grantee under the orders and subGrants so terminated, in which case COMMERCE has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subGrants. Any attempt by the Grantee to settle such claims must have the prior written approval of COMMERCE; and
- D.** Preserve and transfer any materials, Grant deliverables and/or COMMERCE property in the Grantee's possession as directed by COMMERCE.

Upon termination of the Grant, COMMERCE shall pay the Grantee for any service provided by the Grantee under the Grant prior to the date of termination. COMMERCE may withhold any amount due as COMMERCE reasonably determines is necessary to protect COMMERCE against potential loss or liability resulting from the termination. The State shall pay any withheld amount to the Grantee if COMMERCE later determines that loss or liability will not occur.

The rights and remedies of COMMERCE under this section are in addition to any other rights and remedies provided under this Grant or otherwise provided under law.

#### **41. WAIVER**

Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this Grant unless stated to be such in writing and signed by Authorized Representative of COMMERCE.



## Scope of Work

The GRANTEE shall provide program administration and delivery of low-income and middle income weatherization services, which may include but is not limited to performance of the following duties:

1. PROGRAM ADMINISTRATION – OVERVIEW  
Perform all tasks and duties per guideline documents listed in Exhibit A, Applicable Terms and Conditions.
2. PROGRAM ADMINISTRATION – FINANCIAL MANAGEMENT / ACCOUNT / BUDGET
  - a. Maintain accounting records of expenses including, but not limited to: building rent, maintenance, utilities; office equipment and furniture rental and purchase; administrative staff costs.
  - b. Review bills, and prepare and submit monthly billings as authorized in a timely manner.
  - c. Provide agreement closeout report.
3. PROGRAM ADMINISTRATION – WEATHERIZATION SERVICES
  - a. Per the *Policies and Procedures for Managing the Washington State Low-Income Weatherization Assistance Program* and the *Specifications and Standards for the Low-Income Weatherization Program*, perform energy efficiency testing on dwelling units of income eligible households; provide health and safety, and weatherization-related repairs identified during testing; and provide needed weatherization services identified during testing.
  - b. Describe how you will provide client education, especially for new technologies.
  - c. Maintain accounting records of expenses including, but not limited to: building rent, maintenance, utilities; office equipment and furniture rental and purchase; administrative staff costs.
  - d. Ensure staff's required technical trainings and certifications are current.
  - e. Ensure appropriate staff representation at required meetings.
  - f. Maintain accurate and complete cost accounting for each weatherized unit.
  - g. Maintain accurate and complete client files as per the *Policies and Procedures for Managing the Washington State Low-Income Weatherization Assistance Program*.
  - h. Evaluation: The Department of Energy will be conducting independent evaluations of project performance under the SERC grants program. This will sometimes require that projects be structured in a way that will enable the development of accurate performance metrics. These performance metrics may include, but not be limited to, the creation of comparison groups, the gathering of metering information, the collection of billing data and the collection of comprehensive cost information.

### PROGRAM WORK PLAN

#### **Number of Units to be Completed with SERC Funds**

408

City of Seattle Office of Housing will install efficient tank-less system hot water systems, solar hot water systems, ductless heat pumps, heat pumps, and solar hot water systems.

#### SERC Program Work Plan Spreadsheet

The Grantee shall complete and receive approval from COMMERCE of the following work plan spreadsheet prior to the awarding of a SERC grant award:

**SERC Program Work Plan Spreadsheet**

Year 2011	1st Qtr			Q1 Total	2nd Qtr			Q2 Total	3rd Qtr			Q3 Total	4th Qtr			Q4 Total
	Jan	Feb	Mar		Apr	May	Jun		Jul	Aug	Sep		Oct	Nov	Dec	
<b>SERC Unit Targets</b>				0				0				0				0

Year 2012	1st Qtr			Q1 Total
	Jan	Feb	Mar	
<b>SERC Unit Targets</b>				0

**SERC Grant Program Performance Expectations**

If COMMERCE determines a certain project or agency is not able to fulfill SERC obligations, then COMMERCE may redirect these funds to ensure SERC projects are implemented successfully. As part of this agreement, Grantees must submit a SERC Program Work Plan Spreadsheet detailing self-established monthly unit completion targets. Sub grantees will be held accountable to meet these established targets; Grantee SERC Program Work Plan Spreadsheets will be evaluated quarterly.

The SERC agreement begins December 1, 2010 and ends March 31, 2012, for a total of five quarters. The Grantee must meet the SERC Program Work Plan Spreadsheet cumulative target by the end of quarter 2, June 30, 2011. If the Grantee does not meet the cumulative SERC target by June 30, 2011, then Commerce will institute a spending limit on the agreement. The spending limit will be for 20% above the current amount expended.

SERC Program Work Plan Spreadsheets will be evaluated again at the end of quarter 3, September 30, 2011. If the Grantee achieves the cumulative SERC target, then the spending limit will be removed from the agreement. If the Grantee does not meet the target, then COMMERCE will recapture remaining funds and redirect to other SERC Grantees.

If the Grantee does not meet the cumulative SERC Work Plan Spreadsheet targets for quarters 3 or 4, a spending limit will be instituted for 20% above the current amount expended. COMMERCE may recapture remaining funds and redirect to other SERC Grantees.

BUDGET

Administration	\$ 107,825
Program Operation	\$ 215,649
Health and Safety	\$ 1,833,017
Total Budget	\$ 2,156,491

**ADDITIONAL PROVISIONS UNDER THE  
AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009  
Public Law 111-5**

**1. Recovery Act Reporting Requirements; Section 1512(c) of the Recovery Act**

Grantee acknowledges and agrees that the American Recovery and Reinvestment Act of 2009, hereinafter "Recovery Act" places great emphasis on accountability and transparency in the use of taxpayer dollars. Among other things, it creates a new Recovery Accountability and Transparency Board and a new website -- Recovery.gov -- to provide information to the public, including access to detailed information on grants and contracts made with Recovery Act funds.

COMMERCE, as a recipient of Recovery Act funds, must comply with the Recovery Act's extensive reporting requirements, including quarterly financial and programmatic reporting due within 10 calendar days after the end of each calendar quarter. COMMERCE will require periodic reports from its sub-recipients in order to fulfill its reporting obligations. Grantees receiving Recovery Act funds may expect that a standard form(s) and/or reporting mechanism will be made available at a future date.

Grantee agrees to provide to COMMERCE all reports, documentation, or other information, as may be required by COMMERCE to meet reporting obligations under the Recovery Act. Grantees receipt of funds is contingent on Grantee meeting the reporting requirements of Section 1512.

Additional instructions and guidance regarding the required reporting will be provided as they become available. For planning purposes, however, Grantees receiving Recovery Act funds should be aware that Recovery Act section 1512(c) provides:

Recipient Reports- Not later than 10 days after the end of each calendar quarter, each recipient that received recovery funds from a Federal agency shall submit a report to that agency that contains—

- (1) The total amount of recovery funds received from that agency;
- (2) The amount of recovery funds received that were expended or obligated to projects or activities; and
- (3) A detailed list of all projects or activities for which recovery funds were expended or obligated, including:
  - (a) The name of the project or activity;
  - (b) A description of the project or activity;
  - (c) An evaluation of the completion status of the project or activity;
  - (d) An estimate of the number of jobs created and the number of jobs retained by the project or activity; and
  - (e) For infrastructure investments made by State and local governments, the purpose, total cost, and rationale of the agency for funding the infrastructure investment with funds made available under this Act, and name of the person to contact at the agency if there are concerns with the infrastructure investment.
- (4) Detailed information on any subcontracts or subgrants awarded by the recipient to include the data elements required to comply with the Federal Funding Accountability and Transparency



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Act of 2006 (Public Law 109-282), allowing aggregate reporting on awards below \$25,000 or to individuals, as prescribed by the Director of the Office of Management and Budget.

**2. Section 1512 of the Recovery Act: Registration with Central Contractor Registration (CCR)**

Recipients of funds under the Recovery Act shall register with the Central Contractor Registration (CCR) database at [www.ccr.gov](http://www.ccr.gov). This ensures consistent reporting of data about each entity and thereby makes data more useful to the public. In order to register in CCR, a valid Data Universal Numbering System (DUNS) Number is required and should be inserted in Box # 13 of the Face Sheet of this Agreement.

**3. Section 1602 of the Recovery Act: Preference for Quick-Start Activities (if applicable)**

Section 1602 of the Recovery Act provides:

In using funds made available in this Act for infrastructure investment, recipients shall give preference to activities that can be started and completed expeditiously, including a goal of using at least 50 percent of the funds for activities that can be initiated not later than 120 days after the date of the enactment of this Act. Recipients shall also use grant funds in a manner that maximizes job creation and economic benefit.

**4. Section 1604 of the Recovery Act: Limit on Funds**

Section 1604 of the Recovery Act provides:

None of the funds appropriated or otherwise made available in this Act may be used by any State or local government, or any private entity, for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

**5. Required Use of American Iron, Steel, and Manufactured Goods—Section 1605 of the American Recovery and Reinvestment Act of 2009**

Grantee shall comply with Section 1605 of the Recovery Act unless (1) compliance has been waived by the Federal Agency providing the funds; or (2) compliance with the Recovery Act conflicts with an international trade agreement.

**A. Section 1605 of the Recovery Act provides:**

Use of American Iron, Steel, and Manufactured Goods.

(a) None of the funds appropriated or otherwise made available by the Recovery Act may be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States.

(b) Subsection (a) shall not apply in any case or category of cases in which the head of the Federal department or agency involved finds that:

- (1) applying subsection (a) would be inconsistent with the public interest;
- (2) iron, steel, and the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or
- (3) inclusion of iron, steel, and manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent.

(c) If the head of a Federal department or agency determines that it is necessary to waive the application of subsection (a) based on a finding under subsection (b), the head of the department or agency shall publish in the Federal Register a detailed written justification as to why the provision is being waived.

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(d) This section shall be applied in a manner consistent with United States obligations under international agreements.

**B. International Trade Agreements:**

Contracts for the procurement of goods and services in the amount of \$528,000 or more and for constructions services in the amount of \$7,443,000 or more are covered by an international trade agreement and are therefore not subject to Section 1605.

**C. Waivers:**

Grantee shall provide COMMERCE with information and applicable supporting data as may be required by COMMERCE, to support any request for waiver of compliance with Section 1605 (b) of the Recovery Act. The following applies to requests for waivers submitted to COMMERCE.

(a) Definitions.

"Manufactured good" means a good brought to the construction site for incorporation into the building or work that has been:

- (1) Processed into a specific form and shape; or
- (2) Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.

"Public building" and "public work" means a public building of, and a public work of, a governmental entity (the United States; the District of Columbia; commonwealths, territories, and minor outlying islands of the United States; State and local governments; and multi-State, regional, or interstate entities which have governmental functions). These buildings and works may include, without limitation, bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, and canals, and the construction, alteration, maintenance, or repair of such buildings and works.

"Steel" means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

(b) Domestic preference.

- (1) This award term and condition implements Section 1605 of the Recovery Act of 2009 by requiring that all iron, steel, and manufactured goods used in the project are produced in the United States except as provided in paragraph (b)(3) of this term and condition.
- (2) This requirement does not apply to the material excepted by the Federal Government.
- (3) The award official may add other iron, steel, and/or manufactured goods to the list in paragraph (b)(2) of this term and condition if the Federal Government determines that:
  - (i) The cost of the domestic iron, steel, and/or manufactured goods would be unreasonable. The cost of domestic iron, steel, or manufactured goods used in the project is unreasonable when the cumulative cost of such material will increase the cost of the overall project by more than 25 percent;
  - (ii) The iron, steel, and/or manufactured good is not produced, or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or
  - (iii) The application of the restriction of Section 1605 of the Recovery Act would be inconsistent with the public interest.

(c) Request for determination of inapplicability of Section 1605 of the Recovery Act.

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(1)(i) Any request to use foreign iron, steel, and/or manufactured goods in accordance with paragraph (b)(3) of this term and condition shall include adequate information for Federal Government evaluation of the request, including—

- (A) A description of the foreign and domestic iron, steel, and/or manufactured goods;
- (B) Unit of measure;
- (C) Quantity;
- (D) Cost;
- (E) Time of delivery or availability;
- (F) Location of the project;
- (G) Name and address of the proposed supplier; and
- (H) A detailed justification of the reason for use of foreign iron, steel, and/or manufactured goods cited in accordance with paragraph (b)(3) of this term and condition.

(ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed cost comparison table in the format in paragraph (d) of this term and condition.

(iii) The cost of iron, steel, and/or manufactured goods material shall include all delivery costs to the construction site and any applicable duty.

(iv) Any request for a determination submitted after Recovery Act funds have been obligated for a project for construction, alteration, maintenance, or repair shall explain why the Grantee could not reasonably foresee the need for such determination and could not have requested the determination before the funds were obligated.

(2) If the Federal Government determines after funds have been obligated for a project for construction, alteration, maintenance, or repair that an exception to Section 1605 of the Recovery Act applies, COMMERCE will amend the award to allow use of the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is nonavailability or public interest, the amended award shall reflect adjustment of the award amount, redistribution of budgeted funds, and/or other actions taken to cover costs associated with acquiring or using the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is the unreasonable cost of the domestic iron, steel, or manufactured goods, COMMERCE shall adjust the award amount or redistribute budgeted funds in accordance with requirements adopted pursuant to the Recovery Act.

(3) Unless the Federal Government determines that an exception to Section 1605 of the Recovery Act applies, use of foreign iron, steel, and/or manufactured goods is noncompliant with Section 1605 of the American Recovery and Reinvestment Act.

(d) Data.

To permit evaluation of requests under paragraph (b) of this term and condition based on unreasonable cost, the following information and any applicable supporting data based on the survey of suppliers should be provided to COMMERCE:

FOREIGN AND DOMESTIC ITEMS COST COMPARISON			
Description	Unit of Measure	Quantity	Cost (Dollars)*
<b>Item 1:</b>			
Foreign steel, iron, or manufactured good	_____	_____	_____

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Domestic steel, iron, or manufactured good			
<b>Item 2:</b>			
Foreign steel, iron, or manufactured good			
Domestic steel, iron or manufactured good			

[List name, address, telephone number, email address, and contact for suppliers surveyed.]

[Attach copy of response; if oral, attach summary.]

[Include other applicable supporting information.]

[\*Include all delivery costs to the construction site.]

**6. Wage Rate Requirements under Section 1606 of the American Recovery and Reinvestment Act of 2009 – Davis-Bacon Act**

All laborers and mechanics employed by grantees and subgrantees on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the Recovery Act, shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (Davis-Bacon Act). With respect to the labor standards specified in this section, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan numbered 14 of 1950 (64 Stat. 1267, 5 U.S.C. App.) and section 3145 of title 40 United States Code. See U.S. Department of Labor, Wage and Hour Division website at <http://www.dol.gov/esa/whd/contracts/dbra.htm> . Wage determinations can be found at <http://www.wdol.gov>.

The Grantee shall include this provision and require this provision to be contained in all subgrants for work performed under this Grant.

The work performed by this Grant may also be subject to the State's prevailing wage laws, Chapter 39.12 RCW. The Grantee is advised to consult with the Washington State Department of Labor and Industries to determine the prevailing wages that must be paid.

**7. Non-supplanting of State and Local Funds** (if applicable -- consult the program solicitation and the special conditions in the award document)

Grantees must use federal funds to supplement existing State and local funds for program activities and must not replace (supplant) State or local funds that they have appropriated or allocated for the same purpose. Potential supplanting will be the subject of monitoring and audit. Violations may result in a range of penalties, including suspension of current and future funds under this program, suspension or debarment from federal grants, recoupment of monies provided under a grant, and civil and/or criminal penalties. For additional guidance regarding supplanting, refer to the information provided at <http://www.ojp.usdoj.gov/recovery/supplantingguidance.htm>.

**8. Protection of Whistleblowers**

**Prohibition on Reprisals:** An employee of any non-Federal employer receiving covered funds under the Recovery Act may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a disclosure made in the ordinary course of an employee's duties, to the Accountability and Transparency Board, an inspector general, the Comptroller General, a member of

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Congress, a State or Federal regulatory or law enforcement agency, a person with supervisory authority over the employee (or other person working for the employer who has the authority to investigate, discover or terminate misconduct,) a court or grant jury, the head of a Federal agency, or their representatives information that the employee believes is evidence of:

- Gross mismanagement of an agency contract or grant relating to covered funds;
- Gross waste of covered funds;
- Substantial and specific danger to public health or safety related to the implementation or use of covered funds;
- Abuse of authority related to the implementation or use of covered funds; or
- Violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to covered funds.

Any employer receiving covered funds shall post notice of the rights and remedies provided under this section. The recommended written notice is attached as “Know Your Rights Under the Recovery Act”.

#### **9. False Claims Act**

Each grantee or subrecipient should promptly refer to an appropriate inspector general any credible evidence that a principal, employee, agent, contractor, subgrantee, subcontractor or other person has submitted a false claim under the False Claims Act or who has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity or similar misconduct involving those funds.

#### **10. Listing Recovery Act Jobs with the Washington State Employment Security Department**

This Grant is funded with federal stimulus funds (under the Recovery Act), which has strict reporting requirements for funds spent and jobs created or retained (see Exhibit A, attached and incorporated into this Grant as additional instructions). Unless hiring is directly from a union hall, all job openings created by the Grantee for this project must be listed with the WorkSource system (an affiliate of the Employment Security Department) before hiring; all hiring decisions also must be reported to WorkSource. In addition, all Subgrantees hired by the Grantee also must be required to list jobs and report hiring results to WorkSource. Existing Grantee or Subgrantee employees who are retained using funds from this project also must be reported to WorkSource.

WorkSource will pre-screen and refer qualified job candidates for the Grantee's or Subgrantee's consideration. The Grantee and Subgrantee also have the discretion to use other, additional recruitment systems and retain the right to make all hiring decisions.

To begin the listing and reporting process, contact the Employment Security Department ARRA Business Unit at 877-453-5906 (toll-free), 360-438-4849, or [ARRA@esd.wa.gov](mailto:ARRA@esd.wa.gov).

## **How to list ARRA jobs with the Employment Security (ESD) WorkSource system**

To help with the increased transparency and accountability that are required under the American Recovery & Reinvestment Act (ARRA), ESD's ARRA Business Unit will be the central point of contact for state agencies and their contractors for listing and tracking ARRA-funded jobs.

### **Step 1: State agencies notify ESD about ARRA-funded contracts**

Within 2 days after awarding an ARRA-funded contract, state agencies should provide the following information to Employment Security's ARRA Business Unit:

- Name, phone number and address of contractor
- Title or short description of the contract

Report this information to ESD's ARRA Business Unit at [ARRA@esd.wa.gov](mailto:ARRA@esd.wa.gov), 877-453-5906 (toll-free) or 360-438-4849. (Employment Security will use the information to verify that contractors comply with the requirement stated in Step 2.)

### **Step 2: List ARRA-funded jobs with ESD's WorkSource system**

State agencies, contractors and sub-contractors should contact the ARRA Business Unit to begin the process of listing their ARRA-funded jobs with the WorkSource system. The ARRA Business Unit may be reached at 877-453-5906 (toll-free), 360-438-4849 or [ARRA@esd.wa.gov](mailto:ARRA@esd.wa.gov).

**Here's what we'll do with the information:** The ARRA Business Unit will relay the information to a business outreach lead at a WorkSource office in the employer's community. The business outreach lead will contact the employer to obtain the information necessary to list the job/s (create a "job order"), and to discuss the employer's recruitment needs and the services available through WorkSource.

The WorkSource business outreach lead will search the agency's database for qualified applicants (based on job-skill requirements), screen potential applicants, and refer selected candidates to the employer for consideration. (Employers retain the right to use other or additional recruitment systems, and they make all hiring decisions.)

### **Step 3: Report hiring information**

After completing the hiring process, the employer should contact the WorkSource business outreach lead to "close" the job order and provide the following information:

- Job title
- Number of people hired
- Starting wage and hours

This information will be used in reports and status updates to the governor, the federal government and the public.



## Frequently asked questions for ARRA employers

**Q1. What services can I get when I list jobs with WorkSource?**

**A.** WorkSource staff screens and refers job seekers based on how well their skills meet your job requirements. The screening is done broadly or narrowly, depending on how many people you want to interview.

WorkSource also can help you with free job advertising, pay-rate information, tax credits and information on employment laws and regulations. We're committed to helping your business succeed.

**Q2. What screening and assessment of skills does WorkSource conduct?**

**A.** We conduct a variety of screening and assessment. Contact your local WorkSource center to ask what assessment services are provided.

**Q3. If the position requires a certain skill level, can WorkSource test applicants for math and reading levels or typing speed?**

**A.** WorkSource staff will pre-screen applicants based on the qualifications that you need. Ask your WorkSource staff person about their ability to assess certain skills required for the position.

**Q4. Can we conduct interviews at WorkSource?**

**A.** You can use space at WorkSource for mass application sessions, one-on-one interviews, or even group orientations. Contact your local WorkSource to check availability.

**Q5. What is the anticipated hiring time?**

**A.** We recommend you plan ahead (7-10 days), although you may hire when you choose. The job will be listed for you right away.

**Q6. What if WorkSource doesn't have job seekers with the skills and abilities that match our needs?**

**A.** WorkSource staff will look first for qualified local applicants. If no one is available, then the search is expanded to include other areas to see if applicants are willing to commute or relocate. During this recession, there is an unprecedented pool of qualified applicants. Our matching system has the unique capabilities to match skilled job seekers with available jobs.

**Q7. Is WorkSource able to coordinate job fairs or hiring events?**



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- A.** Yes, WorkSource often coordinates large job fairs and targeted hiring events. Your local WorkSource staff can arrange the details such as date, availability of space, and the amount of time they need to help coordinate your hiring event.
- Q8. Do I have to list jobs and report hiring information to WorkSource?**
- A.** Yes. Even if you hire someone who already works for you in a different position, report the hire for contract requirements.
- Q9. Can I list my job opening with other sources like temp agencies or run a classified ad in the newspaper at the same time?**
- A.** You may recruit as broadly as you like. Just remember that a requirement of your contract is to post contract-funded job openings with your WorkSource business representative and report all hiring information.
- Q10. What information is being tracked by WorkSource?**
- A.** WorkSource tracks information about jobs listed, job candidates referred and the job openings filled.
- Q11. Who is the information being provided to?**
- A.** Participation and performance information is provided by the Employment Security Department to the U.S. Department of Labor. It also is being reported to the Governor, who is required by the federal Office of Management and Budget to report about jobs preserved and created during the recession.
- Q12. How long after placing the job order with WorkSource will it take before I can interview applicants?**
- A.** It could happen the same day if there are interested, qualified job seekers who apply right away. Typically, it may take a few days.
- Q13. What if I already have a job candidate (or a list of candidates), why do I have to list my jobs with WorkSource?**
- You can hire anyone you want, but you need to report it to us. Listing your stimulus-funded jobs with WorkSource enables us to track how many jobs are created and filled. We will relay the information to the governor and the federal government, who are documenting the effects of the stimulus funding.



# ***Know Your Rights Under the Recovery***

## ***Act!*** *Did you know?*

The American Recovery and Reinvestment Act of 2009 <sup>1</sup>provides protections for certain employees of non-federal employers who make specified disclosures relating to possible fraud, waste and/or abuse of Recovery Act funds. ***Who is protected?*** Employees of non-federal employers receiving recovery funds. This includes State and local governments, contractors, subcontractors, grantees or professional membership organizations acting in the interest of recovery fund recipients. ***How are Whistleblowers Protected?*** You cannot be discharged, demoted or otherwise discriminated against as a reprisal for making a protected disclosure. ***What types of disclosures are protected?*** The disclosure must be made by the employee to the Recovery Accountability and Transparency Board, an Inspector General, the Comptroller General, a member of Congress, a state or federal regulatory or law enforcement agency, a person with supervisory authority over the employee, a court or grand jury, or the head of a federal agency or his/her representatives. The disclosure must involve information that the employee believes is evidence of:

<sup>1</sup>Section 1553 of Division A, Title XV of the American Recovery and Reinvestment Act of 2009, P.L. 111-5

- gross mismanagement of an agency contract or grant relating to recovery funds;
- a gross waste of recovery funds;
- a substantial and specific danger to public health or safety related to the implementation or use of recovery funds;
- an abuse of authority related to the implementation or use of recovery funds; or
- a violation of law, rule, or regulation related to an agency contract or grant awarded or issued relating to recovery funds.

***Take Action!*** Log on to [Recovery.gov](http://Recovery.gov) for more information about your rights and details on how to report at [www.recovery.gov](http://www.recovery.gov).

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**Exhibit A**

**APPLICABLE TERMS AND CONDITIONS**

The Grantee shall comply with the terms and conditions contained within the following documents provided to the Grantee by the Department of Commerce, Washington State:

- General Terms and Conditions, issued by Department of Commerce, Washington State, for all of its weatherization programs, as amended, as applicable.
- Specific Terms and Conditions, issued by Department of Commerce, Washington State, for each of its weatherization programs, as amended, as applicable.
- Washington State Low-Income Weatherization Assistance Plan for the current year, as applicable.
- Washington State Policies and Procedures for Managing the Low-Income Weatherization Program, Revised April 2010, as applicable.
- Washington State Specifications and Standards for the Low-Income Weatherization Program, Revised April 2010, as applicable.
- Department of Commerce, Washington State, Policy Memoranda, as applicable.